

STATE OF INDIANA – FAYETTE COUNTY
IN THE CIRCUIT AND SUPERIOR COURT

Notice of proposed amended local rule, finding good cause to deviate from established
schedule, requesting comments and Supreme Court approval.

June 16, 2015

The judges of the Fayette Circuit Court and Fayette Superior Court, pursuant to Trial Rule 81(B) give notice of a proposed amended local court rule concerning Criminal Case Assignments at LR21-CR2.2-CR-3 (CASE ASSIGNMENT), LR21-TR79 (H)-26 (SPECIAL JUDGE SELECTION), LR21-CR2.2-CR- 6 (REASSIGNMENT), LR21-CR13-CR- 7 (APPOINTMENT OF SPECIAL JUDGE) and find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for the proposed amended rule.

Notice will be given to the public by posting with the Fayette County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Fayette County Bar Association.

Comments may be made until July 30, 2015 to Judge Paul L. Freed, Fayette Superior Court, 401 N. Central Avenue, Connersville, IN 47331, or by email to pfreed@county.in.fayette.us.

This new rule amendment will be effective July 31, 2015.

Dated this 8th day of July, 2015.

_____/S/_____
Paul L. Freed, Judge Fayette Superior Court

_____/S/_____
Beth Ann Butsch, Judge Fayette Circuit Court

LR21-CR2.2-CR- 3
CASE ASSIGNMENT

~~Prior to July 1, 2014:~~

~~The following criminal cases shall be filed in the Fayette Circuit Court: any C felony or higher and Neglect of a Dependent, Non-Support of a Dependent unless the support obligation is the result of an order issued by the Fayette Superior Court, Failure to Appear if the failure was in the Fayette Circuit Court, D felony violations of Indiana Code 35-42-4, 35-44-3-5 and 35-43-2-1.5 and all offenses filed with them, with the following exceptions: Habitual Traffic Offenders.~~

~~All other offenses and infractions shall be filed in Fayette Superior Court.~~

~~Subsequent to July 1, 2014:~~

The following cases will be filed in the Fayette Superior Court:

1. All criminal charges brought under Title 9 of the Indiana Criminal Code.
2. Level 5 Felony charges specified below:
 - a. Identity Deception
 - b. Synthetic Identity Deception
 - c. Card Skimming Device
 - d. Check Deception
 - e. Welfare Fraud
 - f. Medicaid Fraud
 - g. Fraud on Financial Institutions
 - h. Check Fraud
 - i. Inmate Fraud
 - j. Home Improvement Fraud
3. All Level 6 felony charges, except:
 - a. Neglect of a Dependant
 - b. Non-Support of a Dependent Child
4. All Misdemeanor Offenses and Infractions.

~~Murder and level 1—5 felony offenses and Neglect of Dependent charges with the exception that Habitual Traffic Offender and Non-Support of a Dependent Child charges shall be filed in the Fayette Superior Court.~~

The following cases will be filed in the Fayette Circuit Court:

All felony charges not specifically assigned to the Superior Court by this Rule.

~~All level 6 felonies except Neglect of a Dependent Habitual Traffic Offender Non-Support of a Dependent Child, all misdemeanors and infractions and all other offenses.~~

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LR21-TR79 (H)-26 SPECIAL JUDGE SELECTION

~~(A) — Cases involving a change of judge~~

~~In the absence of an agreement as to a particular special judge [TR 79(D)], or a selected special judge does not accept the case, then the Clerk of the Fayette Circuit and Superior Courts shall select a special judge, first from the other Fayette County court and then from a list maintained by the Clerk of an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of the other Fayette County judge or full-time judicial officers, or senior judges assigned to the court. If a sufficient number of Fayette County judges or full-time judicial officers, or senior judges assigned to the court do not exist, then a panel shall be named including the available Fayette County judge or full-time judicial officers, or senior judges assigned to the court, and judges or full-time judicial officers from courts within the judicial administrative district of which Fayette County is a member, and judges or full-time judicial officers from contiguous counties outside of the judicial administrative district who have agreed to serve as a special judge in the court where the case is pending.~~

~~If none of the above methods produce a special judge, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or full-time judicial officers, or senior judges assigned to the court, eligible under Trial Rule 79(J) from counties within the judicial administrative district of which Fayette County is a member, and judges or full-time judicial officers from contiguous counties outside the judicial administrative district who have agreed to serve as a special judge in the court where the case is pending.~~

In cases in which no judge or full-time judicial officer is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

~~(B) — Cases involving recusal or disqualification of a judge~~

~~— In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or full-time judicial officers, or senior judges assigned to the court, eligible under Trial Rule 79(J) from counties within the judicial administrative district of which Fayette County is a member, and judges or full-time judicial officers from contiguous counties outside the judicial administrative district who have agreed to serve as a special judge in the court where the case is pending.~~

~~— In cases in which no judge or full-time judicial officer is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.~~

**LR21-CR2.2-CR- 6
REASSIGNMENT**

~~The following individuals have agreed to serve in~~ In the event it becomes necessary to reassign a felony or misdemeanor case in the Fayette Circuit or Superior Court, the Clerk shall reassign

the case first to the other sitting judge within the county and then to a special judge who shall be selected randomly from a list maintained by the Clerk of eligible judges from the contiguous counties or from counties within the judicial administrative district of which Fayette County is a member.

~~the Honorable Ronald T. Urdal, Judge of The Fayette Superior Court; the Honorable Steven E. Cox, Judge of the Franklin Circuit Court 1; the Honorable Clay M. Kellerman, Judge of the Franklin Circuit Court 2; and the Honorable Matthew R. Cox, Judge of the Union Circuit Court.—~~

~~The following individuals have agreed to serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Fayette Superior Court: the Honorable Daniel Lee Pflum, Judge of The Fayette Circuit Court; the Honorable J. Steven Cox, Judge of the Franklin Circuit Court 1; the Honorable Clay M. Kellerman, Judge of the Franklin Circuit Court 2; and the Honorable Matthew R. Cox, Judge of the Union Circuit Court.—~~

~~In the event it becomes necessary to reassign a felony or misdemeanor case, the judges will be reassigned in consecutive order to the above noted judges.~~

LR21-CR13-CR- 7 APPOINTMENT OF SPECIAL JUDGE

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding judge may request the Indiana Supreme Court for such appointment.